



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



April 19, 2005

**CERTIFIED MAIL #7003 1010 0003 3557 2340
RETURN RECEIPT REQUESTED**

NOTICE OF PAST VIOLATION

Brian Haberstroh
108 Little Bay Road
Newington, NH 03801

**RE: Wetlands Bureau Complaint File #2004-2184, Haberstroh, 108 Little Bay Road,
Newington Tax Map 15 / Lot 44.**

Dear Mr. Haberstroh:

On April 14, 2005, the New Hampshire Department of Environmental Services ("DES") along with the Newington Building Inspector inspected your property located at 108 Little Bay Road, Newington ("the Property"). The purpose of this inspection was to determine whether violations of RSA 482-A, the New Hampshire Wetlands Law, or RSA 483-B, Comprehensive Shoreland Protection Act ("CSPA") had occurred on the Property.

Based on information submitted to DES prior to the inspection referenced above, it appears there was a violation of disturbance of tidal wetlands without a permit from DES. Photos of the violations are attached.

Based on the DES inspection of April 14, 2005, it appears that the passage of time and tidal action has corrected any violation that existed within the tidal wetland area. Also, cutting has occurred between the existing house and the shoreline within the natural woodland buffer area of the CSPA. As required by the CSPA, the natural woodland buffer shall be maintained within 150 ft. of the reference line. The reference line is defined as the highest observable tide line. No more than a maximum of 50% of the basal area of trees and a maximum of 50% of the total number of saplings shall be cut for any purpose in a 20 year period within the natural woodland buffer area. A healthy, well-distributed stand of trees, saplings, shrubs, and ground covers must be maintained. A copy of the regulation is enclosed.

It appears that the cutting within the natural woodland buffer area has reached the maximum tree cutting of 50% of the basal area and the maximum of 50% of the total number of saplings in a 20 year period. Therefore, no further cutting should take in this area. Current photos of the area are attached.

As stated to you previously, DES has the authority to take enforcement action against any person who conducts work within its jurisdiction without a wetlands permit or that is not in

compliance with the NH Comprehensive Shoreland Protection Act. Enforcement action may include restoration and imposition of an administrative fine. Do not conduct further work within DES jurisdiction that is contrary to the NH Comprehensive Shoreland Protection Act or without first obtaining a wetlands permit

This Notice of Past Violation ("Notice") is to inform you that the violations referenced above have been documented and will be maintained on file at DES. No further action is required of you relative to these violations and DES will take no further enforcement action at this time. This Notice is being sent to help you avoid similar violations in the future so as to protect wetlands, surface waters, and areas adjacent to waters of the state from unregulated despoliation before violations occur.

If you have any questions regarding this matter, please feel free to contact me at (603) 559-1514 or by e-mail at dprice@des.state.nh.us.

Sincerely,


David Price

Compliance Investigator
DES Wetlands-Coastal Region

cc: Gretchen R. Hamel, Administrator, DES Legal Unit
Frank Richardson, DES Wetlands Bureau
Margaret Lamson, Newington Conservation Commission
Charlie Smart, Newington Code Enforcement
Tom Morgan, Newington Town Planner
Adele Fiorillo, NH Soil Consultants, Inc.
Roberta Woodburn, Woodburn & Company Landscape Architecture, LLC